HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition no. 259(SB) 2006

Data Ram Joshi S/o late Sri Jagat Ram Joshi,
Serving as Project Director,
District Rural development Agency,
Rudraprayag. ----Petitioner.

Versus

1. Principal Secretary & Commissioner, Forest & Rural Development, Government of Uttaranchal, Dehradun,
2. Deputy Commissioner, (Administration), Directorate of Rural Development, Uttaranchal, Pauri. ----Respondents.

Mr. Manoj Tewari, learned counsel for the petitioner.
Mr. N.C. Gupta, learned Standing Counsel for the State/respondents.

Coram:- Hon'ble M.M. Ghildiyal, J.
Hon'ble J.C.S. Rawat, J.

Judgment per (Hon'ble M.M. Ghildiyal, J.)

Heard Sri Manoj Tewari, learned counsel for the petitioner and Sri N.C. Gupta, learned Standing Counsel for the State/respondents.

The present writ petition has been filed for the following reliefs:-

a. Issue a writ, order or direction in the nature of mandamus restraining the respondent no. 1 from treating the report dated 08.04.2004 as adverse against the petitioner in view of Rule 5 of the Uttaranchal Government Servants (Disposal of Representation Against Adverse Annual Confidential Reports and Allied Matters) Rules 2002,

b. Issue any other writ, order or direction, which this Hon'ble Court may deem fit and proper in the circumstances of the case,

c. Award the cost of the writ petition in faour of the petitioner,

The petitioner who is at present working as Project Director in District Rural Development Agency, Rudra Prayag was awarded adverse entry on 08.04.2004 and the same was communicated to the petitioner on 19.05.2004 against which the petitioner preferred representation under the **Provisions of Uttaranchal Government Servants (Disposal of Representation Against Adverse Annual Confidential Reports And Allied Matters) Rules 2002.** According to the petitioner, the representation is still pending before the respondent no. 1.

Submission of the learned counsel for the petitioner is that since the representation has yet not been decided the adverse entry will adversely effect the promotion and other service benefits for which the petitioner is entitled. The petitioner has relied upon Rule-5 of the aforesaid Rules which says that ***" Except as provided in Rule 56 of the Uttar Pradesh Fundamental Rules contained in Financial Hand-book, Volume-II to IV, where an adverse report is not communicated or a representation against an adverse report has not been disposed of in accordance with Rule 4, such report shall not be treated adverse for the purpose of promotion, crossing of Efficiency Bar and other service matters of the Government Servant concerned".***

The petitioner has not stated anywhere in the petition that promotions are likely to be made in the Department. In any case, if the promotions are due or any service benefit is due to the petitioner, the respondents shall take in to account Rule-5 of the aforesaid Notification while considering the petitioner's candidature for promotion and other service benefits for which the petitioner is entitled.

With these directions, the writ petition is finally disposed of.

(J.C.S. Rawat, J.) **(M.M. Ghildiyal, J.)**

August 18, 2006:
NCM: